

**IN THE UNITED STATES DISTRICT COURT
FOR THE WESTERN DISTRICT OF TEXAS
WACO DIVISION**

SUSAN HOFFLING
Plaintiff,

V.

**OXFORD PROPERTIES GROUP (US) LP,
d/b/a KILLEEN MALL, OXFORD I ASSET
MANAGEMENT USA INC., OPGI
MANAGEMENT LIMITED
PARTNERSHIP**
Defendants

§
§
§
§
§
§
§
§
§
§
§

CAUSE NO. 6:17-cv-219

DEFENDANTS' NOTICE OF REMOVAL

TO THE HONORABLE JUDGE OF SAID COURT:

NOW COME Oxford Properties Group (US) LP d/b/a Killeen Mall, Oxford I Asset Management USA Inc., and OPGI Management Limited Partnership, Defendants herein, and file this Notice of Removal, removing this case to federal court under 28 U.S.C. §§ 1441 and 1446, and in support there of, would show as follows:

A. Introduction

1. Plaintiff is Susan Hoeffling. Defendants are Oxford Properties Group (US) LP, d/b/a Killeen Mall, Oxford I Asset Management USA, Inc., and OPGI Management Limited Partnership.

2. This lawsuit arises out of Plaintiff's claim that she tripped and fell on a sidewalk at the Killeen mall and suffered injuries as a result.

3. Plaintiff originally filed this suit in the 146th Judicial District, Bell County, Texas, asserting her negligence and related claims.

4. Plaintiff's pleadings state that she seeks relief in an amount over One Hundred Thousand Dollars (\$100,000.00) (Plaintiff's Original Petition, p. 1, ¶¶1, 2.)

5. There is diversity of citizenship between the Plaintiff and Defendants, thus making removal proper under 28 U.S.C. §§ 1332 and 1446.

B. Basis for Removal

6. Removal is proper under 28 U.S.C. §§ 1332 and 1446 because there is complete diversity of citizenship and the amount in controversy exceeds \$75,000 and this removal is filed within 30 days after the service on Defendants.

7. There is complete diversity of citizenship as follows:

(a) Plaintiff resides in Texas and appears to intend to remain there. As the basis of her lawsuit, Plaintiff alleges that she suffered an injury at the Killeen Mall in Bell County, Texas, and she pleads that she resides in Kempner, Bell County, Texas. *See Freeman v. Northwest Acceptance Corp.*, 754 F.2d 553, 555-56 (5th Cir. 1985). Thus, Plaintiff is a citizen of Texas.

(b) As alleged by Plaintiff, OPGI Management Limited Partnership is a foreign limited partnership, organized and existing under the laws of Canada, with its principal office at 200 Bay St., Suite 900, Toronto, Ontario, M5J 2J2, Canada. OPGI Management Limited Partnership's general partner is OPGI Management GP Inc., a corporation organized and existing under the laws of Canada with its principal place of business in Ontario. The limited partner of OPGI Management LP is 2006186 Ontario Inc., a corporation organized and existing under the laws of Canada, with its principal office in Ontario. *See Corfield v. Dallas Glen Hills LP*, 355 F.3d 853, 865 (5th Cir. 2003) (citizenship of a limited partnership based on citizenship of its partners); *see* 28

U.S.C. § 1332(a) (citizenship of corporation determined by jurisdiction of formation and principal place of business). (Declaration of Christopher Lankin.)

(c) As alleged by Plaintiff, Defendant Oxford Properties Group (US) LP is a limited partnership, organized and existing under the laws of the State of Delaware with its principal office in New York State. The general partner of Oxford Properties Group (US) LP is Oxford Properties Group (US) GP, Inc., a corporation organized and existing under the laws of the State of Delaware with its principal place of business in the State of New York. The limited partner of Oxford Properties Group (US) LP is OPG Investment Holdings US Inc., a corporation organized and existing under the laws of Canada, with its principal office in Ontario. *See Corfield*, 355 F.3d at 865; *see* 28 U.S.C. § 1332(a). (Declaration of Christopher Lankin.)

(d) Defendant Oxford I Asset Management USA Inc. is a corporation, organized and existing under the laws of the State of Delaware with its principal office in the State of New York. *See* 28 U.S.C. § 1332(a). (Declaration of Christopher Lankin.)

8. Plaintiff's pleadings state that she seeks relief in an amount of over \$100,000. (Plaintiff's Original Petition, p.¶¶1, 2.) *See S.W.S. Erectors Inc. v. Infax Inc.*, 72 F.3d 489, 492 (5th Cir. 1996) (removing defendant can rely on plaintiff's statement of amount in controversy); *see also* 28 U.S.C. § 1446(c).

9. Defendants' notice of removal is timely, as it is filed within 30 days of Defendant's being served with a pleading stating a removable case. *Alim v. KBR, Inc.*, No. 13-11094, 2014 U.S. App. LEXIS 10508, at *4 (5th Cir. 2014) (unpub.) (30-day deadline for removal runs from the defendant's receipt of a pleading setting forth a removable claim).

10. All defendants that have been named and joined by service consent to this notice of removal. *See* 28 U.S.C. § 1446(b)(2) (requiring consent of all defendants joined and served).

11. Copies of all pleadings, process, orders, and other filings in the state-court suit will be filed as required by 28 U.S.C. §1446(a).

12. Venue is proper in this district under 28 U.S.C. §1441(a) because the state court where the suit has been pending, the 146th Judicial District, is located in this district.

13. Defendants will promptly file a copy of this notice of removal with the clerk of the state court where the suit has been pending.

C. Jury Demand

14. Defendant OPGI Management Limited Partnership has requested a jury trial, but no jury fee has been paid.

D. Conclusion

15. There is complete diversity of citizenship and the amount in controversy exceeds \$75,000. Thus, there is diversity jurisdiction over this matter and removal is proper as set forth herein.

NAMAN HOWELL SMITH & LEE, PLLC

By: /s/ Joe Rivera
Joe Rivera
State Bar No. 24065981
E-mail: jrivera@namanhowell.com
Neal E. Pirkle
State Bar No. 00794464
E-mail: pirkle@namanhowell.com

ATTORNEYS FOR DEFENDANTS

CERTIFICATE OF SERVICE

I hereby certify that a true and correct copy of the forgoing has been served on counsel of record, on the 15th day of August, 2017, as follows:

M. Bryon Barnhill
Law Office of M. Bryon Barnhill, PLLC
331 Indian Trail, Suite 101
Harker Heights, Texas 76548
Certified Mail, Return Receipt Requested
No. 7016 2070 0000 8856 2370

/s/ Joe Rivera
Joe Rivera